

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 890 and 892

RIN 3206-AN08

### Federal Employees Health Benefits Program Self Plus One Enrollment Type

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Office of Personnel Management (OPM) is issuing a proposed rule to amend the Federal Employees Health Benefits (FEHB) Program regulations to add an additional enrollment type called “self plus one” for premium rating and family member eligibility purposes.

**DATES:** Comments are due on or before February 2, 2015.

**ADDRESSES:** Send written comments to Chelsea Ruediger, Policy Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, Room 4312, 1900 E Street NW., Washington, DC; or FAX to (202) 606-4640 Attn: Chelsea Ruediger. You may also submit comments using the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Chelsea Ruediger at [Chelsea.Ruediger@opm.gov](mailto:Chelsea.Ruediger@opm.gov) or (202) 606-0004.

**SUPPLEMENTARY INFORMATION:** Section 706 of the Bipartisan Budget Act of 2013 adds to chapter 89 of title 5 United States Code a self plus one enrollment type for Federal employees and retirees under the Federal Employees Health Benefits (FEHB) Program. This proposed regulation amends 5 CFR parts 890 and 892 to include a self plus one enrollment type.

The self plus one enrollment type will be available starting in the 2015 Open Season for the 2016 plan year. A self plus one enrollment will cover the enrollee and one eligible family member, designated by the enrollee. The proposed regulation does not alter current FEHB family member eligibility guidelines. Eligible family members under a self plus one enrollment will be a spouse or an eligible child as outlined in § 890.302.

The government contribution calculation, determined by statute in 5 U.S.C. 8906, is based on the lesser of: (1) 72 percent of amounts OPM determines are the program-wide weighted average of premiums in effect each year, for self only, self plus one, and for self and family enrollments, respectively, or (2) capped at 75 percent of the total premium for the particular plan option an enrollee selects. This government contribution calculation will apply to the three tier enrollment structure. Because actual enrollment data for a new three tier structure will not be available in advance, OPM will determine the weighted average<sup>1</sup> for use

in calculating the Government contribution and the employee contribution for the first plan year in which the self plus one enrollment type is made available (5 U.S.C. 8906(a)(1)(B)).

The proposed regulation provides definitions for a self only, self plus one, and self and family enrollment as follows:

- Self only enrollment means an enrollment that covers only the enrollee.
- Self plus one enrollment means an enrollment that covers the enrollee and one eligible family member.
- Self and family enrollment means an enrollment that covers the enrollee and all eligible family members.

We also offer definitions for an increase and decrease in enrollment type as follows:

- Decrease enrollment type means a change in enrollment from self and family to self plus one or to self only or a change from self plus one to self only.
- Increase enrollment type means a change in enrollment from self only to self plus one or to self and family or a change from self plus one to self and family.

This proposed regulation allows individuals with a self plus one enrollment to make enrollment changes during Open Season and consistent with the guidelines for current FEHB Qualifying Life Events. The following chart summarizes when enrollment changes will be allowed. Definitions for each of the event codes can be found on the SF2809 at [http://www.opm.gov/forms/pdf\\_fill/sf2809.pdf](http://www.opm.gov/forms/pdf_fill/sf2809.pdf).

Change	Permitted for the following event codes
<b>For Enrollees Participating in Premium Conversion</b>	
Increase enrollment .....	1B, 1C, 1E, 1F, 1I, 1J, 1K, 1M, 1N, 1O, 1R.
Decrease enrollment .....	1B, 1C, 1E, 1F, 1G, 1H, 1J, 1M, 1N, 1O, 1P, 1Q, 1R.
<b>For Annuitants (decreases in enrollment type are allowed at any time)</b>	
Increase enrollment .....	2A, 2B, 2F, 2G, 2H, 2I, 2J, 2K.
<b>For Former Spouses Under the Spouse Equity Provision (decreases in enrollment type are allowed at any time)</b>	
Increase enrollment .....	3B, 3C, 3F, 3G, 3H, 3I.

<sup>1</sup> Pub. L 113-67 sec. 706(d) WEIGHTED AVERAGE FOR FIRST YEAR.—For the first contract year for which an employee may enroll for

self plus one coverage under chapter 89 of title 5, United States Code, the Office of Personnel Management shall determine the weighted average

of the subscription charges that will be in effect for the contract year for enrollments for self plus one under such chapter based on an actuarial analysis.

Change	Permitted for the following event codes
<b>For Temporary Continuation of Coverage (TCC) for Eligible Former Employees, Former Spouses, and Children (decreases in enrollment type are allowed at any time)</b>	
Increase enrollment .....	4A (for eligible former employees only), 4B, 4C, 4D, 4F, 4G, 4H.
<b>For Employees Not Participating in Premium Conversion (decreases in enrollment type are allowed at any time)</b>	
Increase enrollment .....	5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J, 5N.
<p>In addition, enrollees in self plus one are provided with an opportunity to switch their covered family member during the annual Open Season and outside of Open Season upon experiencing a change in family status, a change in coverage, or a change in eligibility. The following chart summarizes this. Definitions for each of the event codes can be found on the SF2809 at <a href="http://www.opm.gov/forms/pdf_fill/sf2809.pdf">http://www.opm.gov/forms/pdf_fill/sf2809.pdf</a>.</p>	
Change	Permitted for the following event codes
<b>For Enrollees Participating in Premium Conversion</b>	
Switch covered family member under a self plus one enrollment.	1B, 1C, 1I, 1J, 1M, 1N, 1O, 1P, 1Q, 1R.
<b>For Annuitants (decreases in enrollment type are allowed at any time)</b>	
Switch covered family member under a self plus one enrollment.	2A, 2B, 2F, 2G, 2H, 2I, 2J.
<b>For Former Spouses Under the Spouse Equity Provision (decreases in enrollment type are allowed at any time)</b>	
Switch covered family member under a self plus one enrollment.	3B, 3C, 3F, 3G, 3H, 3I.
<b>For Temporary Continuation of Coverage (TCC) for Eligible Former Employees, Former Spouses, and Children (decreases in enrollment type are allowed at any time)</b>	
Switch covered family member under a self plus one enrollment.	4B, 4C, 4D, 4F, 4G, 4H.
<b>For Employees Not Participating in Premium Conversion (decreases in enrollment type are allowed at any time)</b>	
Switch covered family member under a self plus one enrollment.	5B, 5C, 5F, 5G, 5H, 5I, 5J, 5N.

We are requesting comments on these amendments and on the implementation of the self plus one enrollment type.

### Regulatory Impact Analysis

OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules that may have economically significant effects (*i.e.*, effects of \$100 million or more in at least one year). Given that there are approximately 8.2 million members participating in the FEHB Program and participation involves hundreds of dollars per member per month, we cannot rule out the

possibility that this proposed rule's changes to the FEHB Program will have effects that meet the threshold for economic significance. However, we do expect the overall federal budget impact of this proposed rule to be net neutral.

The new enrollment tier will align the FEHB Program with the commercial market and serve to spread costs across different enrollment types; in other words, it will shift costs among program participants. Under OPM's policies, current enrollees with Self and Family coverage who only have one dependent are expected to have lower premiums under the new enrollment tier, while those with more than one dependent are expected to have higher premiums. A large percentage of annuitants who currently have Self and Family coverage would likely benefit from a Self-Plus One premium tier, resulting in mandatory savings to the government because the government share of annuitant premiums will decrease. As enrollees shift from Self and Family

enrollments, OPM will closely monitor the effect on premiums for those remaining in that enrollment type. If premiums for active employees with more than one covered family member rise, there will be increasing costs to the government (assuming appropriation of necessary funds).<sup>2</sup>

The impact of this proposed rule hinges upon the relative premiums for self plus one and self and family insurance options. Because the self and family option includes coverage for a larger number of people, a natural assumption would be that premiums (both the portion paid by the

<sup>2</sup> United States Office of Personnel Management, Congressional Budget Justification Performance Budget, Fiscal Year 2014, Submitted April 2013, available at <https://www.opm.gov/about-us/budget-performance/budgets/congressional-budget-justification-fy2014.pdf>. See also Congressional Budget Office, Cost Estimate, Bipartisan Budget Act of 2013, dated December 11, 2013, available at <http://www.cbo.gov/sites/default/files/cbofiles/attachments/Bipartisan%20Budget%20Act%20of%202013.pdf>.

government and the portion paid by the federal employee or annuitant) would be lower with self plus one enrollment than with self and family enrollment. In that case, several rule-induced outcomes are likely:

- Federal employees and annuitants who, in the absence of the rule, would choose self and family enrollment for themselves and either a spouse or a child would switch to self-plus-one enrollment, resulting in lower premium payments for both the employees and annuitants and the federal government.
- Federal employees and annuitants choosing self and family enrollment for themselves and at least two family members would experience an increase in premiums and therefore, in some cases, may choose to switch from FEHB to an alternative health insurance option. If all such families continued with FEHB participation, the government would experience an increase in premium payments that would (in theory) exactly offset the decreases associated with two-person families switching from self and family to self plus one enrollment; however, any switching away from FEHB would mitigate the premium increases experienced by the federal government, instead potentially leading to payment increases by any contributors to the newly-chosen insurance options (an obvious example would be the employer of a federal employee's or annuitant's spouse if that employer sponsors the newly-chosen insurance).

- Federal employees and annuitants who, in the absence of the rule, would choose self only enrollment in spite of having a spouse or child who would be eligible for coverage under self and family enrollment may choose self plus one enrollment. For example, this outcome might occur if a self and family premium is greater than the combined premiums for a federal employee's self only enrollment and a spouse's self only enrollment in health insurance through his or her own employer, but the relevant FEHB self plus one premium is less than the combined premiums.<sup>3</sup> In this type of scenario in which the federal employee's or annuitant's enrollment increases, the federal government would pay more in

premiums (relative to a baseline in which this rule is not finalized) but the federal employee's or annuitant's family would pay less. Any contributors to the insurance in which the family member would be enrolled in the absence of the rule—such as the employer of the federal employee's spouse in the preceding example—would also pay less.

The premium payments newly made by the entities listed above are appropriately categorized as costs to society if rule-induced changes in health insurance enrollment would be associated with providing additional or higher-quality medical services to affected individuals. These costs would presumably be associated with health and longevity benefits. Analogously, overall reductions in premium payments are appropriately categorized as cost savings for society if rule-induced changes in health insurance enrollment would be associated with providing lower amounts or quality of medical services. These cost savings would presumably be associated with reductions in health and longevity. To the extent that new patterns of enrollment do not change how society uses its resources, then effects described above would be transfers between members of society, rather than social costs or benefits.

We lack data with which to quantify rule-induced costs, transfers or public health benefits. We therefore request comments on any of this proposed rule's impacts.

### Regulatory Flexibility Act

I propose to certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only adds a self plus one enrollment tier to the current self only and self and family enrollment tiers under FEHB.

### Executive Orders 13563 and 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Orders 13563 and 12866.

### Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

### List of Subjects in 5 CFR Part 890 and 892

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Taxes, Wages, Retirement.

U.S. Office of Personnel Management.

**Katherine Archuleta,**

*Director.*

Accordingly, OPM proposes to amend 5 CFR parts 890 and 892 as follows:

### PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

**Authority:** 5 U.S.C. 8913; Sec. 890.301 also issued under sec. 311 of Pub. L. 111–03, 123 Stat. 64; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604; 5 U.S.C. 8913; Sec. 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 890.102 also issued under sections 11202(f), 11232(e), 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061; Pub. L. 111–148, as amended by Pub. L. 111–152.

■ 2. Amend § 890.101 by:

■ a. Revising the definitions of “Change the enrollment” and “Covered family member”; and

■ b. Adding the definitions of “Decrease enrollment type,” “Increase enrollment type,” “Self and family enrollment,” “Self only enrollment,” and “Self plus one enrollment” in alphabetical order.

The revisions and additions read as follows:

#### § 890.101 Definitions; time computations.

\* \* \* \* \*

*Change the enrollment* means to submit to the employing office an appropriate request electing a change of enrollment to a different plan or option, or to a different type of coverage (self only, self plus one, or self and family).

\* \* \* \* \*

*Covered family member* means a member of the family of an enrollee with a self plus one or self and family enrollment who meets the requirements of § 890.302, § 890.804, or § 890.1106(a), as appropriate to the type of enrollee.

*Decrease enrollment type* means a change in enrollment from self and family to self plus one or to self only or a change from self plus one to self only.

\* \* \* \* \*

*Increase enrollment type* means a change in enrollment from self only to

<sup>3</sup> Similarly, federal employees and annuitants who, in the absence of the rule, would choose not to participate in the FEHB Program may choose self plus one enrollment. For example, this outcome might occur if a federal employee's spouse has access to health insurance with a family or plus-one premium that is less than the combined premiums for the federal employee's self only enrollment and the spouse's self only enrollment, but the relevant FEHB self plus one premium is even further below the combined premiums than the family or plus-one premium through the spouse's employer.

self plus one or to self and family or a change from self plus one to self and family.

\* \* \* \* \*

*Self and family enrollment* means an enrollment that covers the enrollee and all eligible family members.

*Self only enrollment* means an enrollment that covers only the enrollee.

*Self plus one enrollment* means an enrollment that covers the enrollee and one eligible family member.

\* \* \* \* \*

■ 3. Amend § 890.201 by revising (a)(6) to read as follows:

**§ 890.201 Minimum standards for health benefits plans.**

(a) \* \* \*

(6) Provide a standard rate structure that contains, for each option, one standard self only rate, one standard self plus one rate and one standard self and family rate.

\* \* \* \* \*

■ 4. Amend § 890.301 by revising paragraphs (e), (f)(3), (g)(1) and (3), (h) introductory text, (i) introductory text and (i)(1), and (m) to read as follows:

**§ 890.301 Opportunities for employees who are not participants in premium conversion to enroll or change enrollment; effective dates.**

\* \* \* \* \*

(e) *Decreasing enrollment type.* (1) Subject to two exceptions, an employee may decrease enrollment type at any time. *Exceptions:*

(i) An employee participating in health insurance premium conversion may decrease enrollment type during an open season or because of and consistent with a qualifying life event as defined in part 892 of this chapter.

(ii) An employee who is subject to a court or administrative order as discussed in § 890.301(g)(3) may not decrease enrollment type in a way that eliminates coverage of a child identified in the order as long as the court or administrative order is still in effect and the employee has at least one child identified in the order who is still eligible under the FEHB Program, unless the employee provides documentation to the agency that he or she has other coverage for the child(ren). The employee may not elect self only as long as he or she has one child identified as covered, but may elect self plus one.

(2) A decrease in enrollment type takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the enrollee and upon a showing satisfactory to the employing office that

there was no family member eligible for coverage under the self plus one or self and family enrollment, or only one family member eligible for coverage under the self and family enrollment, as appropriate, the employing office may make the change effective on the first day of the pay period following the one in which there was, in the case of a self plus one enrollment, no family member or, in the case of a self only enrollment, only one or no family member.

(f) \* \* \*

(3) With one exception, during an open season, an eligible employee may enroll and an enrolled employee may decrease or increase enrollment type, may change from one plan or option to another, or may make any combination of these changes. Exception: An employee who is subject to a court or administrative order as discussed in § 890.301(g)(3) may not cancel his or her enrollment, decrease enrollment type, or change to a comprehensive medical plan that does not serve the area where his or her child or children live as long as the court or administrative order is still in effect, and the employee has at least one child identified in the order who is still eligible under the FEHB Program, unless the employee provides documentation to the agency that he or she has other coverage for the child(ren). The employee may not elect self only as long as he or she has one child identified as covered, but may elect self plus one.

\* \* \* \* \*

(g) *Change in family status.* (1) An eligible employee may enroll and an enrolled employee may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes when the employee's family status changes, including a change in marital status or any other change in family status. The employee must enroll or change the enrollment within the period beginning 31 days before the date of the change in family status, and ending 60 days after the date of the change in family status.

\* \* \* \* \*

(3)(i) If an employing office receives a court or administrative order on or after October 30, 2000, requiring an employee to provide health benefits for his or her child or children, the employing office will determine if the employee has a self plus one or self and family enrollment, as appropriate, in a health benefits plan that provides full benefits in the area where the child or children live. If the employee does not have the required enrollment, the agency must notify him or her that it has received the court or administrative order and give the

employee until the end of the following pay period to change his or her enrollment or provide documentation to the employing office that he or she has other coverage for the child or children. If the employee does not comply within these time frames, the employing office must enroll the employee involuntarily as stated in paragraph (g)(3)(ii) of this section.

(ii) If the employee is not enrolled or does not enroll, the agency must enroll him or her for self plus one or self and family coverage, as appropriate, in the option that provides the lower level of coverage in the Service Benefit Plan. If the employee is enrolled but does not increase the enrollment type in a way that is sufficient to cover the child or children, the employing office must change the enrollment to self plus one or self and family, as appropriate, in the same option and plan, as long as the plan provides full benefits in the area where the child or children live. If the employee is enrolled in a comprehensive medical plan that does not serve the area in which the child or children live, the employing office must change the enrollment to self plus one or self and family, as appropriate, in the option that provides the lower level of coverage in the Service Benefit Plan.

\* \* \* \* \*

(h) *Change in employment status.* An eligible employee may enroll and an enrolled employee may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes when the employee's employment status changes. Except as otherwise provided, an employee must enroll or change the enrollment within 60 days after the change in employment status. Employment status changes include, but are not limited to—

\* \* \* \* \*

(i) *Loss of coverage under this part or under another group insurance plan.* An eligible employee may enroll and an enrolled employee may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes when the employee or an eligible family member of the employee loses coverage under this part or another group health benefits plan. Except as otherwise provided, an employee must enroll or change the enrollment within the period beginning 31 days before the date of loss of coverage, and ending 60 days after the date of loss of coverage. Losses of coverage include, but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the

termination, cancellation, or a change to self plus one or to self only, of the covering enrollment.

\* \* \* \* \*

(m) An employee or eligible family member becomes eligible for premium assistance under Medicaid or a State Children's Health Insurance Program (CHIP). An eligible employee may enroll and an enrolled employee may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes when the employee or an eligible family member of the employee becomes eligible for premium assistance under a Medicaid plan or CHIP. An employee must enroll or change his or her enrollment within 60 days after the date the employee or family member is determined to be eligible for assistance.

■ 5. Amend § 890.302 by revising paragraphs (a)(1), (a)(2)(ii), and (c) introductory text and adding paragraph (f) to read as follows:

**§ 890.302 Coverage of family members.**

(a)(1) An enrollment for self plus one includes the enrollee and one eligible family member. An enrollment for self and family includes all family members who are eligible to be covered by the enrollment. Except as provided in paragraph (a)(2) of this section, no employee, former employee, annuitant, child, or former spouse may enroll or be covered as a family member if he or she is already covered under another person's self plus one or self and family enrollment in the FEHB Program.

(2) \* \* \*

(ii) *Exception.* An individual described in paragraph (a)(2)(i) of this section may enroll if he or she or his or her eligible family members would otherwise not have access to coverage, in which case the individual may enroll in his or her own right for self only, self plus one, or self and family coverage, as appropriate. However, an eligible individual is entitled to receive benefits under only one enrollment regardless of whether he or she qualifies as a family member under a spouse's or parent's enrollment. To ensure that no person receives benefits under more than one enrollment, each enrollee must promptly notify the insurance carrier as to which person(s) will be covered under his or her enrollment. These individuals are not covered under the other enrollment. Examples include but are not limited to:

(A) To protect the interests of married or legally separated Federal employees, annuitants, and their children, an employee or annuitant may enroll in his or her own right in a self only, self plus one, or self and family enrollment, as

appropriate, even though his or her spouse also has a self plus one or self and family enrollment if the employee, annuitant, or his or her children live apart from the spouse and would otherwise not have access to coverage due to a service area restriction and the spouse refuses to change health plans.

(B) When an employee who is under age 26 and covered under a parent's self plus one or self and family enrollment acquires an eligible family member, the employee may elect to enroll for self plus one or self and family coverage.

\* \* \* \* \*

(c) *Child incapable of self-support.* When an individual's enrollment for self plus one or self and family includes a child who has become 26 years of age and is incapable of self-support, the employing office must require such enrollee to submit a physician's certificate verifying the child's disability. The certificate must—

\* \* \* \* \*

(f) *Switching a covered family member.* An enrollee with a self plus one enrollment may switch his or her covered family member during the annual Open Season, upon a change in family status, upon a change in coverage, or upon a change in eligibility, so long as switching a covered family member is consistent with the event that has taken place.

■ 6. Amend § 890.303 by revising paragraphs (c), (d)(2)(ii), and the paragraph heading to (d)(3) to read as follows:

**§ 890.303 Continuation of enrollment.**

\* \* \* \* \*

(c) *On death.* (1) The enrollment of a deceased employee or annuitant who is enrolled for self plus one or self and family (as opposed to self only) is transferred automatically to his or her eligible survivor annuitant(s) covered by the enrollment, as applicable. For self and family, the enrollment is considered to be that of:

(i) The survivor annuitant from whose annuity all or the greatest portion of the withholding for health benefits is made; or

(ii) The surviving spouse entitled to a basic employee death benefit.

(2) The enrollment covers members of the family of the deceased employee or annuitant. In those instances in which the annuity is split among surviving family members, multiple enrollments are allowed. A remarried spouse is not a member of the family of the deceased employee or annuitant unless annuity under section 8341 or 8442 of title 5, United States Code, continues after remarriage.

(d) \* \* \*

(2) \* \* \*

(ii) If the surviving spouse of a deceased employee or annuitant is enrolled as an employee with a self plus one or self and family enrollment (or, if both the decedent and the surviving spouse were enrolled in a self only or self plus one enrollment) at the time the surviving spouse becomes a survivor annuitant and the surviving spouse is thereafter separated without entitlement to continued enrollment as a retiree, the surviving spouse is entitled to enroll as a survivor annuitant. The change from coverage as an employee to coverage as a survivor annuitant must be made within 30 days of separation from service.

\* \* \* \* \*

(3) *Insurable interest survivor annuity.*

\* \* \* \* \*

■ 7. Amend § 890.306 by revising paragraphs (e), (f)(1)(i), (g)(1), (l) introductory text, (l)(1), (n), and (r) as follows:

**§ 890.306 When can annuitants or survivor annuitants change enrollment or reenroll and what are the effective dates?**

\* \* \* \* \*

(e) *Decreasing enrollment type.* (1) With one exception, an annuitant may decrease enrollment type at any time. Exception: An annuitant who, as an employee, was subject to a court or administrative order as discussed in § 890.301(g)(3) at the time he or she retired may not, after retirement, decrease enrollment type in a way that eliminates coverage of a child identified in the order as long as the court or administrative order is still in effect and the annuitant has at least one child identified in the order who is still eligible under the FEHB Program, unless the annuitant provides documentation to the retirement system that he or she has other coverage for the child or children. The annuitant may not elect self only as long as he or she has one child identified as covered, but may elect self plus one.

(2) A decrease in enrollment type takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the annuitant and upon a showing satisfactory to the employing office that there was no family member eligible for coverage under the self plus one or self and family enrollment, or only one family member eligible for coverage under the self and family enrollment, as appropriate, the employing office may make the change effective on the first day of the pay period following the one

in which there was, in the case of a self plus one enrollment, no family member or, in the case of a self and family enrollment, only one or no family member.

(f) \* \* \*

(1) \* \* \*

(i) With one exception, an enrolled annuitant may decrease or increase enrollment type, may change from one plan or option to another, or may make any combination of these changes. Exception: An annuitant who, as an employee, was subject to a court or administrative order as discussed in § 890.301(g)(3) at the time he or she retired may not cancel or suspend his or her enrollment, decrease enrollment type, in a way that eliminates coverage of a child identified in the order or change to a comprehensive medical plan that does not serve the area where his or her child or children live after retirement as long as the court or administrative order is still in effect and the annuitant has at least one child identified in the order who is still eligible under the FEHB Program, unless the annuitant provides documentation to the retirement system that he or she has other coverage for the child or children. The annuitant may not elect self only as long as he or she has one child identified as covered, but may elect self plus one.

\* \* \* \* \*

(g) *Change in family status.* (1) An enrolled former employee in receipt of an annuity may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes when the annuitant's family status changes, including a change in marital status or any other change in family status. In the case of an enrolled survivor annuitant, a change in family status based on additional family members occurs only if the additional family members are family members of the deceased employee or annuitant. The annuitant must change the enrollment within the period beginning 31 days before the date of the change in family status, and ending 60 days after the date of the change in family status.

\* \* \* \* \*

(l) *Loss of coverage under this part or under another group insurance plan.* An annuitant who meets the requirements of paragraph (a) of this section, and who is not enrolled but is covered by another enrollment under this part may continue coverage by enrolling in his or her own name when the annuitant loses coverage under the other enrollment under this part. An enrolled annuitant may decrease or increase enrollment

type, change from one plan or option to another, or make any combination of these changes when the annuitant or an eligible family member of the annuitant loses coverage under this part or under another group health benefits plan.

Except as otherwise provided, an annuitant must enroll or change the enrollment within the period beginning 31 days before the date of loss of coverage and ending 60 days after the date of loss of coverage. Losses of coverage include, but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the termination, cancellation, or a change to self plus one or self only, of the covering enrollment;

\* \* \* \* \*

(n) *Overseas post of duty.* An annuitant may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes within 60 days after the retirement or death of the employee on whose service title to annuity is based, if the employee was stationed at a post of duty outside a State of the United States or the District of Columbia at the time of retirement or death.

\* \* \* \* \*

(r) *Sole survivor.* When an employee or annuitant enrolled for self plus one or self and family dies, leaving a survivor annuitant who is entitled to continue the enrollment, and it is apparent from available records that the survivor annuitant is the sole survivor entitled to continue the enrollment, the office of the retirement system which is acting as employing office must change the enrollment from self plus one or self and family to self only, effective on the commencing date of the survivor annuity. On request of the survivor annuitant made within 31 days after the first installment of annuity is paid, the office of the retirement system which is acting as employing office must rescind the action retroactive to the effective date of the change to self only, with corresponding adjustment in withholdings and contributions.

\* \* \* \* \*

■ 8. Amend § 890.401 by revising paragraph (a)(1) to read as follows:

**§ 890.401 Temporary extension of coverage and conversion.**

(a) *Thirty-one day extension and conversion.* (1) An enrollee whose enrollment is terminated other than by cancellation of the enrollment or discontinuance of the plan, in whole or part, and a covered family member whose coverage is terminated other than

by cancellation of the enrollment or discontinuance of the plan, in whole or in part, is entitled to a 31-day extension of coverage for self only, self plus one, or self and family, as the case may be, without contributions by the enrollee or the Government, during which period he or she is entitled to exercise the right of conversion provided for by this part. The 31-day extension of coverage and the right of conversion for any person ends on the effective date of a new enrollment under this part covering the person.

\* \* \* \* \*

■ 9. Amend § 890.501 by revising paragraph (b) introductory text, (b)(2)(i), and (b)(3) to read as follows:

**§ 890.501 Government contributions.**

\* \* \* \* \*

(b) In accordance with the provisions of 5 U.S.C. 8906(a) which take effect with the contract year that begins in January 1999, OPM will determine the amounts representing the weighted average of subscription charges in effect for each contract year, for self only, self plus one, and self and family enrollments, as follows:

\* \* \* \* \*

(2) \* \* \*

(i) When a subscription charge for an upcoming contract year applies to a plan that is the result of a merger of two or more plans which contract separately with OPM during the determination year, or applies to a plan which will cease to offer two benefits options, OPM will combine the self only enrollments, the self plus one enrollments, and the self and family enrollments from the merging plans, or from a plan's benefits options, for purposes of weighting subscription charges in effect for the successor plan for the upcoming contract year.

\* \* \* \* \*

(3) After OPM weights each subscription charge as provided in paragraph (b)(2) of this section, OPM will compute the total of subscription charges associated with self only enrollments, self plus one enrollments, and self and family enrollments, respectively. OPM will divide each subscription charge total by the total number of enrollments such amount represents to obtain the program-wide weighted average subscription charges for self only and for self plus one and self and family enrollments, respectively.

\* \* \* \* \*

■ 10. Amend § 890.804 by revising paragraph (a) to read as follows:

**§ 890.804 Coverage.**

(a) *Type of enrollment.* A former spouse who meets the requirements of § 890.803 may elect coverage for self only, self plus one, or self and family. A self and family enrollment covers only the former spouse and all eligible children of both the former spouse and the employee, former employee, or employee annuitant, provided such children are not otherwise covered by a health plan under this part. A self plus one enrollment covers only the former spouse and one eligible child of both the former spouse and the employee, former employee, or employee annuitant, provided the child is not otherwise covered by a health plan under this part. A child must be under age 26 or incapable of self-support because of a mental or physical disability existing before age 26. No person may be covered by two enrollments.

\* \* \* \* \*

■ 11. Amend § 890.806 by revising paragraphs (e), (f)(1)(i), (g)(1), (j) introductory text, and (j)(1) to read as follows:

**§ 890.806 When can former spouses change enrollment or reenroll and what are the effective dates?**

\* \* \* \* \*

(e) *Decreasing enrollment type.* (1) A former spouse may decrease enrollment type at any time.

(2) A decrease in enrollment type takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the former spouse and upon a showing satisfactory to the employing office that there was no family member eligible for coverage under the self plus one or self and family enrollment, or only one family member eligible for coverage under the self and family enrollment, as appropriate, the employing office may make the change effective on the first day of the pay period following the one in which there was, in the case of a self plus one enrollment, no family member or, in the case of a self and family enrollment, only one or no family member.

(f) \* \* \*

(i) An enrolled former spouse may decrease enrollment type, increase enrollment type provided the family member(s) to be covered under the enrollment is eligible for coverage under § 890.804, change from one plan or option to another, or make any combination of these changes.

\* \* \* \* \*

(g) *Change in family status.* (1) An enrolled former spouse may increase

enrollment type, change from one plan or option to another, or make any combination of these changes within the period beginning 31 days before and ending 60 days after the birth or acquisition of a child who meets the eligibility requirements of § 890.804.

\* \* \* \* \*

(j) *Loss of coverage under this part or under another group insurance plan.* An enrolled former spouse may decrease or increase enrollment type, change from one plan or option to another or make any combination of these changes when the former spouse or a child who meets the eligibility requirements under § 890.804 loses coverage under another enrollment under this part or under another group health benefits plan. Except as otherwise provided, the former spouse must change the enrollment within the period beginning 31 days before the date of loss of coverage and ending 60 days after the date of loss of coverage, provided he or she continues to meet the eligibility requirements under § 890.803. Losses of coverage include but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the termination, cancellation, or a change to self plus one or self only, of the covering enrollment;

\* \* \* \* \*

■ 12. Amend § 890.1103 by revising paragraphs (a)(2) and (3) to read as follows:

**§ 890.1103 Eligibility.**

(a) \* \* \*

(2) Individuals whose coverage as children under the self plus one or self and family enrollment of an employee, former employee, or annuitant ends because they cease meeting the requirements for being considered covered family members. For the purpose of this section, children who are enrolled under this part as survivors of deceased employees or annuitants are considered to be children under a self plus one or self and family enrollment of an employee or annuitant at the time of the qualifying event.

(3) Former spouses of employees, of former employees having continued self plus one or self and family coverage under this subpart, or of annuitants, if the former spouse would be eligible for continued coverage under subpart H of this part except for failure to meet the requirement of § 890.803(a)(1) or § 890.803(a)(3) of this part or the documentation requirements of § 890.806(a) of this part, including former spouses who lose eligibility under subpart H within 36 months after

termination of the marriage because they ceased meeting the requirement of § 890.803(a)(1) or § 890.803(a)(3) of this part.

\* \* \* \* \*

■ 13. Amend § 890.1106 by revising paragraph (a) introductory text to read as follows:

**§ 890.1106 Coverage.**

(a) *Type of enrollment.* An individual who enrolls under this subpart may elect coverage for self only, self plus one, or self and family.

\* \* \* \* \*

■ 14. Amend § 890.1108 by revising paragraphs (d), (e)(1), (f)(1) and (2), (h) introductory text, and (h)(1) to read as follows:

**§ 890.1108 Opportunities to change enrollment; effective dates.**

\* \* \* \* \*

(d) *Decreasing enrollment type.* (1) An enrollee may decrease enrollment type at any time.

(2) A decrease in enrollment type takes effect on the first day of the first pay period that begins after the date the employing office receives an appropriate request to change the enrollment, except that at the request of the enrollee and upon a showing satisfactory to the employing office that there was no family member eligible for coverage under the self plus one or self and family enrollment, or only one family member eligible for coverage under the self and family enrollment, as appropriate, the employing office may make the change effective on the first day of the pay period following the one in which there was, in the case of a self plus one enrollment, no family member or, in the case of a self and family enrollment, only one or no family member.

(e) *Open season.* (1) During an open season as provided by § 890.301(f), an enrollee (except for a former spouse who is eligible for continued coverage under § 890.1103(a)(3)) may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes. A former spouse who is eligible for continued coverage under § 890.1103(a)(3) may change from one plan or option to another, but may not change from self only to self plus one or self and family unless the individual to be covered under the self plus one or self and family enrollment qualifies as a family member under § 890.1106(a)(2).

\* \* \* \* \*

(f) *Change in family status.* (1) Except for a former spouse, an enrollee may decrease or increase enrollment type, change from one plan or option to

another, or make any combination of these changes when the enrollee's family status changes, including a change in marital status or any other change in family status. The enrollee must change the enrollment within the period beginning 31 days before the date of the change in family status, and ending 60 days after the date of the change in family status.

(2) A former spouse who is covered under this section may increase enrollment type, change from one plan or option to another, or make any combination of these changes within the period beginning 31 days before and ending 60 days after the birth or acquisition of a child who qualifies as a covered family member under § 890.1106(a)(2).

\* \* \* \* \*

(h) *Loss of coverage under this part or under another group insurance plan.* An enrollee may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes when the enrollee loses coverage under this part or a qualified family member of the enrollee loses coverage under this part or under another group health benefits plan. Except as otherwise provided, an enrollee must change the enrollment within the period beginning 31 days before the date of loss of coverage and ending 60 days after the date of loss of coverage. Losses of coverage include, but are not limited to—

(1) Loss of coverage under another FEHB enrollment due to the termination, cancellation, or change to self plus one or to self only, of the covering enrollment.

\* \* \* \* \*

■ 15. Amend § 890.1202 by revising the definition of “Covered family members” to read as follows:

**§ 890.1202 Definitions.**

\* \* \* \* \*

*Covered family members* as it applies to individuals covered under this subpart has the same meaning as set forth in § 890.101(a). For eligible survivors of individuals enrolled under this subpart, a self plus one enrollment covers only the survivor or former spouse and one eligible child of both the survivor or former spouse and hostage. A self and family enrollment covers only the survivor or former spouse and any eligible children of both the survivor or former spouse and hostage.

\* \* \* \* \*

■ 16. Amend § 890.1203 by revising paragraph (b) to read as follows:

**§ 890.1203 Coverage.**

\* \* \* \* \*

(b) An individual who is covered under this subpart is covered under the Standard Option of the Service Benefit Plan. The individual has a self and family enrollment unless the U.S. Department of State determines that the individual is married and has no eligible children, or is unmarried and has one eligible child, in which case the individual is covered under a self plus one enrollment, or unless the U.S. Department of State determines that the individual is unmarried and has no eligible children, in which case the individual has a self only enrollment.

\* \* \* \* \*

■ 17. Amend § 890.1205 by revising paragraphs (a) and (b) to read as follows:

**§ 890.1205 Change in type of enrollment.**

(a) Individuals covered under this subpart or eligible survivors enrolled under this subpart may increase enrollment type if they acquire an eligible family member. The change may be made at the written request of the enrollee at any time after the family member is acquired. An increase in enrollment type under this paragraph becomes effective on the 1st day of the pay period after the pay period during which the request is received by the U.S. Department of State, except that a change based on the birth or addition of a child as a new family member is effective on the 1st day of the pay period during which the child is born or otherwise becomes a new family member.

(b) Individuals covered under this subpart or eligible survivors enrolled under this subpart may decrease enrollment type from a self and family enrollment when the last eligible family member (other than the enrollee) ceases to be a family member or only one family member remains; and may decrease enrollment type from a self plus one enrollment when no family member remains. The change may be made at the written request of the enrollee at any time after the last family member is lost and it becomes effective on the 1st day of the pay period after the pay period during which the request is received by the U.S. Department of State.

\* \* \* \* \*

■ 18. Amend § 890.1209 by revising paragraph (c) to read as follows:

**§ 890.1209 Responsibilities of the U.S. Department of State.**

\* \* \* \* \*

(c) The U.S. Department of State must determine the number of eligible family members, if any, for the purpose of coverage under a self only, self plus one, or self and family enrollment as set forth

in § 890.1203(b). If the number of eligible family members of the individual cannot be determined, the U.S. Department of State must enroll the individual for self and family coverage.

**PART 892—FEDERAL FLEXIBLE BENEFITS PLAN: PRE-TAX PAYMENT OF HEALTH BENEFITS PREMIUMS**

■ 19. The authority citation for part 892 is revised to read as follows:

**Authority:** 5 U.S.C. 8913; 5 U.S.C. 1103(a)(7); 26 U.S.C. 125.

■ 20. Amend § 892.101 by revising paragraphs (9) and (13) in the definition of “Qualifying life event” to read as follows:

**§ 892.101 Definitions.**

\* \* \* \* \*

*Qualifying life event.\* \* \**

(9) An employee becomes entitled to Medicare. (For change to self only, self plus one, cancellation, or change in premium conversion status see § 892.101 (11)).

\* \* \* \* \*

(13) An employee or eligible family member becomes eligible for premium assistance under Medicaid or a State Children's Health Insurance Program (CHIP). An eligible employee may enroll and an enrolled employee may decrease or increase enrollment type, change from one plan or option to another, or make any combination of these changes when the employee or an eligible family member of the employee becomes eligible for premium assistance under a Medicaid plan or a State Children's Health Insurance Program. An employee must enroll or change his or her enrollment within 60 days after the date the employee or family member is determined to be eligible for assistance.

■ 21. Amend § 892.207 by revising paragraph (b) to read as follows:

**§ 892.207 Can I make changes to my FEHB enrollment while I am participating in premium conversion?**

\* \* \* \* \*

(b) However, if you are participating in premium conversion there are two exceptions: you must have a qualifying life event to decrease enrollment type or to cancel FEHB coverage entirely. (See §§ 892.209 and 892.210.) Your change in enrollment must be consistent with and correspond to your qualifying life event as described in § 892.101. These limitations apply only to changes you may wish to make outside open season.

\* \* \* \* \*

■ 22. Revise § 892.208 to read as follows:

**§ 892.208 Can I change my enrollment from self and family to self plus one or self only at any time?**

(a) If you are participating in premium conversion you may decrease your FEHB enrollment type under either of the following circumstances:

(1) *During the annual open season.* A decrease in enrollment type made during the annual open season takes effect on the 1st day of the first pay period that begins in the next year.

(2) *Within 60 days after you have a qualifying life event.* A decrease in enrollment type made because of a qualifying life event takes effect on the first day of the first pay period that begins after the date your employing office receives your appropriate request. Your change in enrollment must be consistent with and correspond to your qualifying life event. For example, if you get divorced and have no dependent children, changing to self only would be consistent with that qualifying life event. As another example, if both you and your spouse are Federal employees, and your youngest dependent turns age 26, changing from a self and family to a self plus one or two self only enrollments would be consistent and appropriate for that event.

(b) If you are subject to a court or administrative order as discussed in § 890.301(g)(3) of this chapter, you may not decrease enrollment type in a way that eliminates coverage of a child identified in the order as long as the court or administrative order is still in effect and you have at least one child identified in the order who is still eligible under the FEHB Program, unless you provide documentation to your agency that you have other coverage for your child or children. See also §§ 892.207 and 892.209. If you are subject to a court or administrative order as discussed in § 890.301(g)(3) of this chapter, you may not change your enrollment to self plus one as long as the court or administrative order is still in effect and you have more than one child identified in the order who is still eligible under the FEHB Program, unless you provide documentation to your agency that you have other coverage for your children. See also §§ 892.207 and 892.209.

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**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**7 CFR Part 319**

[Docket No. APHIS–2014–0041]

RIN 0579–AE01

**Importation of Orchids in Growing Media From Taiwan**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations governing the importation of plants and plant products to add orchid plants of the genus *Oncidium* from Taiwan to the list of plants that may be imported into the United States in an approved growing medium, subject to specified growing, inspection, and certification requirements. We are taking this action in response to a request from the Taiwanese Government and after determining that the plants could be imported, under certain conditions, without resulting in the introduction into, or the dissemination within, the United States of a plant pest or noxious weed.

**DATES:** We will consider all comments that we receive on or before February 2, 2015.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0041>.
- *Postal Mail/Commercial Delivery:*

Send your comment to Docket No. APHIS–2014–0041, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0041> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Ms. Heather Coady, Regulatory Policy Specialist, Plants for Planting Policy, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851–2076.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in 7 CFR part 319 prohibit or restrict the importation into the United States of certain plants and plant products to prevent the introduction of plant pests and noxious weeds. The regulations in “Subpart—Plants for Planting,” §§ 319.37 through 319.37–14 (referred to below as the regulations) contain, among other things, prohibitions and restrictions on the importation of plants, plant parts, and seeds for propagation.

Paragraph (a) of § 319.37–8 of the regulations requires, with certain exceptions, that plants offered for importation into the United States be free of sand, soil, earth, and other growing media. This requirement is intended to help prevent the introduction of plant pests that might be present in the growing media; the exceptions to the requirement take into account factors that mitigate that plant pest risk. Those exceptions, which are found in paragraphs (b) through (e) of § 319.37–8, consider either the origin of the plants and growing media (paragraph (b)), the nature of the growing media (paragraphs (c) and (d)), or the use of a combination of growing conditions, approved media, inspections, and other requirements (paragraph (e)).

Paragraph (e) of § 319.37–8 provides conditions under which certain plants established in growing media may be imported into the United States. In addition to specifying the types of plants that may be imported § 319.37–8(e) also:

- Specifies the types of growing media that may be used;
- Requires plants to be grown in accordance with written agreements between the Animal and Plant Health Inspection Service (APHIS) and the national plant protection organization (NPPO) of the country where the plants are grown and between the foreign NPPO and the grower;
- Requires the plants to be rooted and grown in a greenhouse that meets certain requirements for pest exclusion and that is used only for plants being grown in compliance with § 319.37–8(e);
- Restricts the source of the seeds or parent plants used to produce the plants, and requires grow-out or treatment of parent plants imported into the exporting country from another country;
- Specifies the sources of water that may be used on the plants, the height of the benches on which the plants must be grown, and the conditions under which the plants must be stored and packaged; and